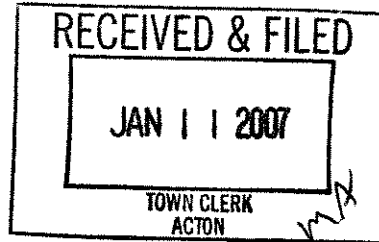


Planning Board



FYI

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DECISION

07-01

Sovereign Bank, 409 Massachusetts Avenue

Sign Special Permit

January 9, 2007

GRANTED with Conditions

Decision of the Acton Planning Board (hereinafter the Board) on the application of Back Bay Sign, Medford, MA on behalf of Sovereign Bank (hereinafter the Applicant) for property located at 409 Massachusetts Avenue, Acton, MA owned by 411 Mass Ave LLC, Brookline, MA. The property is shown on the 2006 Acton Town Atlas map F-3 as parcel 108 (hereinafter the Site).

This Decision is in response to an application for a sign special permit, received by the Acton Planning Department on November 7, 2006, pursuant to Section 7.13 of the Acton Zoning Bylaw (hereinafter the Bylaw) and the Sign Special Permit Rules and Regulations (hereinafter the Rules).

The Applicant presented the subject matter of the special permit to the Board at a duly noticed public hearing on December 12, 2006. Board members Gregory E. Niemyski (Chairman), Christopher R. Schaffner, Ruth M. Martin, Michael C. Densen, Bruce Reichlen, and Alan R. Mertz were present throughout the hearing. The minutes of the hearing and submissions on which this decision is based upon may be referred to in the Planning Department or the Town Clerk's office at the Acton Town Hall.

1 EXHIBITS

Submitted for the Board's deliberation were the following exhibits:

1.1 Items and documentation required by the Rules consisting of:

- A properly executed Application for a Sign Special Permit, dated 11/6/06.
- Certified abutters list.
- A locus map.
- Sign renderings:
 - Drawings 1-3 and 6, dated 8/9/06;
 - Drawing 9 dated 2/10/06, last revised 12/12/06;
 - Drawing 11 dated 12/12/06.
- A sign location plan:
 - Drawing 7 dated 9/25/06;
 - Drawing 8 dated 8/9/06, last revised 12/12/06;
 - Drawing 10 dated 12/12/06.
- A letter from the Applicant to the Board, dated 12/12/06.

- 1.2 Interdepartmental communication received from:
- Acton Building Commissioner, dated 11/9/06;
 - Acton Treasurer's Office, dated 11/28/06;
 - Acton Historical Commission, dated 11/8/06;
 - Acton Tree Warden & Municipal Properties Dir., dated 11/8/06;
 - Acton Engineering Department, dated 12/1/06;
 - Acton Planning Department, dated 12/11/07.

Exhibit 1.1 is referred to herein as the Plan.

2 FINDINGS AND CONCLUSIONS

Based upon its review of the exhibits and the record of the proceedings the Board finds and concludes that:

- 2.1 The Site is located within the Kelley's Corner (KC) zoning district.
- 2.2 The Applicant requests a special permit for one additional freestanding sign (hereinafter the Sign) at the Site that would not otherwise be allowed under the Bylaw:
- a) Only one freestanding sign is allowed on a lot identifying a business or business center located on the same lot (Section 7.8.1 of the Bylaw). The Sovereign Bank building is located on the same lot as the 411 Massachusetts Avenue building. One freestanding (business center) sign for the 411 Massachusetts Avenue building has already been installed on the lot at the corner of No Name Road and Massachusetts Avenue.

In all other respects the proposed sign as requested would comply with by-right requirements of the Bylaw.

- 2.3 The Sign may be allowed on the Site by special permit in accordance with Section 7.13.1.1 of the Bylaw.
- 2.4 The Board asked the Applicant to revise the sign location plan to show the Sign located adjacent to the parking lot and drive-through entrance, approximately in line with the northern side wall of the building. This change will locate the Sign closer to the ATM entrance since the ATM is highlighted on the Sign and improve sign visibility to Main Street traffic.
- 2.5 The shape and topography of the lot gives the appearance to the passerby that the bank building and the 411 Massachusetts Avenue building are on separate lots. As such, the Sign will be distant enough from the existing freestanding sign and the overall signage will not become too excessive for the lot.
- 2.6 The Sign will increase visibility of the business to vehicular and pedestrian traffic.
- 2.7 The Sign is consistent with the character and uses of the area and with the Zoning District in which it will be located.
- 2.8 The Sign is appropriate in scale, design, and proportion relative to the buildings in the area and to the general surroundings. It is attractively designed, appropriately located, and will be compatible with the building to which it principally relates, and it is in harmony with the general area of the Kelley's Corner zoning district.
- 2.9 The Sign is a continuous part of an integrated architectural design of the entire Site.
- 2.10 The colors and materials of the Sign are restrained, and in harmony with the buildings.
- 2.11 The materials used for the Sign are appropriate and do not detract from the aesthetic qualities of the surroundings.

- 2.12 The number of graphic elements on the Sign is held to the minimum needed to convey the Sign's primary messages and they are in good proportion to the area of the Sign's face.
- 2.13 The Sign will not unduly compete for attention with any other signs in the area.
- 2.14 The Sign is necessary for adequate identification of the business at this Site.
- 2.15 The Sign as approved herein is appropriate for the Site; is consistent with the Master Plan; is in harmony with the purpose and intent of the Bylaw, specifically Section 7; will not be detrimental or injurious to the neighborhood where it is proposed; and complies in all respects to the applicable requirements of the Bylaw and the Rules.
- 2.16 The Board has received comments from various Town departments, which are listed in Exhibit 1.2 above. The Board considered these comments in its deliberations, made them available to the Applicant, and incorporated them into this decision as deemed appropriate.

3 BOARD ACTION

Therefore, the Board voted (five in favor, zero opposed, one absent) to GRANT the requested special permit subject to and with the benefit of the following Plan modifications, conditions and limitations.

3.1 CONDITIONS

The following conditions shall be binding on the Applicant and its successors and assigns, and shall be enforceable by the Building Commissioner in his administration of the sign permits under Section 7.6 of the Bylaw. Failure to adhere to these conditions shall render this special permit null and void, without force and effect, and shall constitute grounds for the revocation of this special permit, and of any sign permit issued by the Building Commissioner hereunder. The Town of Acton may elect to enforce compliance with this special permit using any and all powers available to it under the law.

- 3.1.1 Prior to erecting the Sign, the Applicant shall obtain a sign permit from the Building Commissioner pursuant to Section 7.6 of the Bylaw.
- 3.1.2 The Sign requested for Sovereign Bank along No Name Road shall be erected adjacent to the bank parking lot and drive-through entrance, approximately in line with the northern side wall of the bank building.
- 3.1.3 The Sign shall be erected in accordance with the Plan approved and amended herewith, and shall otherwise comply with all applicable requirements of the Bylaw.
- 3.1.4 All taxes, penalties and back charges resulting from the non-payment of taxes, if any, shall be paid in full prior to issuance of a sign permit.

3.2 LIMITATIONS

This special permit shall be limited as follows:

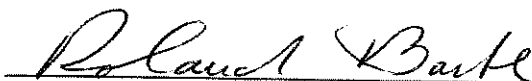
- 3.2.1 The foregoing conditions have been stated for the purpose of emphasizing their importance, but are not intended to be all-inclusive or to negate the remainder of the Bylaw and the Rules.
- 3.2.2 This special permit applies only to the Site identified in this decision and to the proposed Sign as shown on the Plan and in this Decision.
- 3.2.3 Other approvals or permits required by the Bylaw, other governmental boards, agencies, or bodies having jurisdiction shall not be assumed or implied by this decision.

- 3.2.4 This special permit shall lapse if substantial use thereof has not commenced within two years of the filing date of this decision with the Town Clerk, except for good cause, or if construction under this special permit is not continued through to completion as continuously and expeditiously as is reasonable. A request to extend said time limits must be made in writing to the Board at least 30 days prior to said expiration dates. The Board herewith reserves its rights and powers to grant or deny such extension, to issue any appropriate changes to the special permit and to require any appropriate modifications of the Plan.
- 3.2.5 The Board hereby reserves its right and power to modify or amend the Plan and the terms and conditions of this special permit with or without a public hearing upon the request of the Applicant, his designees or assigns, or upon its own motion.

4 APPEALS

Appeals, if any, shall be made pursuant to MGL, Ch. 40A, s. 17 and shall be filed within 20 days after the date of filing this decision with the Town Clerk.

Signed on behalf of the Acton Planning Board



Roland Bartl, AICP, Town Planner
for the Town of Acton Planning Board

This is to certify that the 20-day appeal period on this decision has passed and there have been no appeals made to this office.

Eva Taylor, Town Clerk

Date

Copies furnished:

Applicant - 7001 1940 0667 5460 2233
certified mail #

Municipal Properties Director ✓
Historic District Commission ✓

Owner ✓

Town Clerk *have original* ✓
Town Manager ✓
Police Dept. ✓

Building Commissioner ✓
Engineering Administrator ✓
Historical Commission ✓

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